IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6334 OF 2006

Shri Mansaram Punjaram Gavane
since deceased through his LRs
Deepak Mansaram Gavane & Anr. ...Petitioners
V/s.
The State of Maharashtra & Anr. ...Respondents

Mr.Anil J. Ahuja for Petitioners.
Mr.Pradip Patil, AGP for Respondents.

CORAM : R.M.S. KHANDEPARKAR &
V.M. KANADE, JJ.

DATED : SEPTEMBER 25, 2006

P.C. :-

1. Heard.

2. Rule. By consent, Rule made returnable forthwith.

3. The only grievance of the petitioner in the matter is that his application under Section 28A of the Land Acquisition Act, 1894 has been rejected on the ground that the compensation which was offered after Award being declared under Section 11 of the said Act was accepted without any protest and that under Section 28A, application is not maintainable unless such a

protest is lodged while accepting the compensation under the said Act. Undisputedly, the issue on which the application is sought to be rejected has been settled by the decision of the Apex Court in the matters of **Union of India and another v. Hansoli Devi and others and State of Tripura and another v. Roop Chand Das and others, reported in AIR 2002 SC 3240** wherein it has been clearly held that irrespective of the fact whether there is protest lodged or not, every interested person is entitled to file an application under Section 28A once the Reference Court enhances compensation in relation to the other interested persons whose land is acquired under the said notification. The law in that regard being well settled, the impugned order of the Collector/Land Acquisition Officer cannot be sustained and is liable to be set aside and the respondent to be directed to decide the application filed by the petitioner under Section 28A on merits in accordance with the provision of the law.

4. Hence, petition succeeds. The impugned order is hereby quashed and set aside. Respondents are directed

to decide the application under Section 28A filed by the petitioner with reference to Plot No.168/1 consequent to the decision of the Reference Court in Land Acquisition Case No.705/1990 dated 7th March, 1998, as expeditiously as possible and in any case, within a period of six months from today.

5. Rule is made absolute accordingly with no order as to costs.

(R.M.S. KHANDEPARKAR, J.)

(V.M. KANADE, J.)